

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**October 25, 2004**

**IN RE:**

**PETITION FOR APPROVAL OF AMENDMENT TO  
THE INTERCONNECTION AGREEMENT BETWEEN  
BELLSOUTH TELECOMMUNICATIONS, INC. AND  
ADELPHIA BUSINESS SOLUTIONS OPERATIONS,  
INC. AND ADELPHIA BUSINESS SOLUTIONS OF  
NASHVILLE, L.P.**

**DOCKET NO.  
04-00215**

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**ORDER APPROVING  
FIFTH AMENDMENT TO THE INTERCONNECTION AGREEMENT**

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This matter came before Chairman Pat Miller, Director Deborah Taylor Tate and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on September 13, 2004, to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of the fifth amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and Adelphia Business Solutions Operations, Inc. and Adelphia Business Solutions of Nashville, L P.

The original interconnection agreement and the first set of amendments thereto between these parties was filed on May 4, 2001, and was assigned Docket No 01-00407. By operation of Section 252(e)(4) of the Telecommunications Act of 1996, the interconnection agreement and first set of amendments thereto was deemed approved on August 2, 2001<sup>1</sup>. The second amendment was filed on September 26, 2001, under Docket No. 01-00834 and was approved at a regularly scheduled Authority Conference on November 6, 2001. The third amendment was filed on December 20, 2002,

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<sup>1</sup> See *In re Petition for Approval of the Interconnection Agreement and Amendments Thereto Negotiated by BellSouth Telecommunications, Inc. and Adelphia Business Solutions Operations, Inc. and Adelphia Business Solutions of Nashville, LP, Pursuant to Sections 251 and 252 of the Telecommunications Act of 1996*, Docket No 01-00407, Order (January 14, 2002)

under Docket No 02-01309 and was approved at a regularly scheduled Authority Conference on February 18, 2003. The fourth amendment was filed on March 3, 2004, under Docket No. 04-00077 and was approved at a regularly scheduled Authority Conference on May 10, 2004.<sup>2</sup> The fifth amendment, which is the subject of this docket, was filed on July 21, 2004.

Based upon a review of the amendment, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously granted the Petition and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn Code Ann § 65-4-104.
- 2) The amendment is in the public interest as it provides consumers with alternative sources of telecommunications services within BellSouth Telecommunications, Inc 's service area.
- 3) The amendment is not discriminatory to telecommunications service providers that are not parties thereto.
- 4) 47 U.S.C § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it "discriminates against a telecommunications carrier not a party to the agreement" or if the implementation of the agreement "is not consistent with the public interest, convenience or necessity." Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).<sup>3</sup> Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the amendment is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.
- 5) No person or entity has sought to intervene in this docket.

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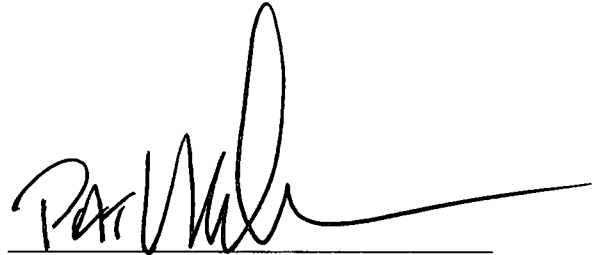
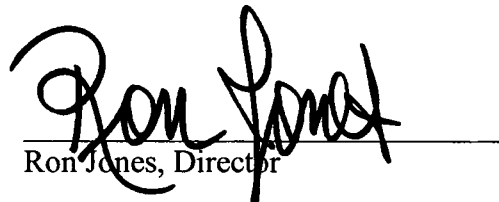
<sup>2</sup> The *Order Approving Third Amendment to the Interconnection Agreement* issued by the Authority on May 24, 2004, in Docket No 04-00077 incorrectly reflected the procedural history of this docket by stating that the amendment was the third amendment and not the fourth amendment.

<sup>3</sup> See 47 U.S.C. § 252(e)(2)(B)

6) The amendment is reviewable by the Authority pursuant to 47 U.S.C § 252 and Tenn. Code Ann. § 65-4-104

**IT IS THEREFORE ORDERED THAT:**

The Petition is granted, and the fifth amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and Adelphia Business Solutions Operations, Inc. and Adelphia Business Solutions of Nashville, L.P. is approved and is subject to the review of the Authority as provided herein.

  
Pat Miller, Chairman  
Deborah Taylor Tate, Director  
Ron Jones, Director